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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/074,806

02/13/2002

Jay Strater

D02761

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7590

04/08/2008

Motorola, Inc.

Law Department

1303 East Algonquin Road

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Schaumburg, IL 60196

EXAMINER

LEE, CHI HO A

ART UNIT

PAPER NUMBER

2616

NOTIFICATION DATE

DELIVERY MODE

04/08/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing.Schaumburg@motorola.com

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<b>Office Action Summary</b>	<b>Application No.</b> 10/074,806	<b>Applicant(s)</b> STRATER ET AL.	
	<b>Examiner</b> Andrew Lee	<b>Art Unit</b> 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/25/05; 8/1/05</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 6-8, 11-13 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Whitcher et al U.S. Patent Number 6,754,221.

Re Claim 1, fig. 8A and 8B teaches the functions of the Gateway (endpoint) in communication with Customer Premise Equipment (endpoint), whereby the Gateway performs authorizing and reserving of the bandwidth (step 526) at a time when bandwidth is sufficient to establish a voice data connection; wherein the fig. 4 teaches a table indicating a bandwidth allocated for voice (committing only a portion of bandwidth) associated with a Voice compression algorithm (establish a compressed voice traffic connection) between the gateway and Customer premise equipment, wherein the bandwidth allocated for voice is a subset of available bandwidth (See col. 18, lines 37 +).

Re Claims 6-8, refer to Claim 1, step 528 selects an compression algorithm based on the QoS.

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Re Claims 11, 13, refer to Claim 1, wherein the CTMS (Call agent) is associated with the Cable network.

Re Claim 12, refer to Claim 1, fig. 1 teaches a MTA 28.

Re Claim 15, refer to Claim 5, wherein the system support voice calls/tones.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 5, 9, 10, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitcher et al U.S. Patent Number 6,754,221 in view of Varghese et al U.S. Patent Number 5,313,467.

Re Claim 2, Whitcher et al fails to explicitly teach, "releasing of the reserved but uncommitted portion of the allocation....to support voice traffic and not voice-band data". However, Varghese et al teaches an integrated link controller (See fig. 2) that has a pre-determined policy in which voice circuits have priority over data transmission for bandwidth. One skilled in the art would have been motivated to implement the pre-determined policy into the teaching of Whitcher to prioritizing voice over data to ensure availability of bandwidth for voice services. Therefore, it would have been obvious to one ordinary skilled to combine the references.

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Re Claim 5, refer to Claim 1, wherein the prioritizing is pre-determined policy and does not need further authorization.

Re Claim 9, refer to Claim 2, wherein the CTMS is the call agent.

Re Claim 10, refer to Claim 6.

Re Claim 14, refer to Claim 1, wherein the prioritization scheme can be best effort.

5. Claims 3, 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitcher et al U.S. Patent Number 6,754,221 in view of Varghese et al U.S. Patent Number 5,313,467 as applied to claim 2 above and further in view of U.S. Patent Number 5,448,567.

Re Claim 3, Whitcher in view of Varghese fails to explicitly teach, "releasing...prescribed period of time...without detection of voice-band data.". However, '567 patent teaches determining an idle period and/or timing out period for de-allocating the assigned bandwidth. One skilled in the art would have been motivated to assign a time-out/idle period to the allotted bandwidth for bandwidth efficiency. Therefore, it would have been obvious to one ordinary skilled to have combined the references.

Re Claim 4, refer to Claim 3, wherein the time-out period is accustomed to detect the data.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Lee whose telephone number is 571-272-3130. The examiner can normally be reached on Monday to Friday from 8:30AM to 6:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Firman Backer can be reached on 571-272-6703. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew Lee/  
Primary Examiner, Art Unit 2616